

## Fair Political Practices Commission

### Memorandum

**To:** Chairman Johnson, Commissioners Hodson, Huguenin, Leidigh & Remy

**From:** Emelyn Rodriguez, Commission Counsel, Legal Division  
Scott Hallabrin, General Counsel

**Subject:** Adoption of Proposed Regulation 18530.45 – Relating to Legal Defense Funds for Local Candidates and Officers

**Date:** July 16, 2008

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Proposed Commission Action and Staff Recommendation: Adopt Regulation 18530.45 (Attachment 1).

Public Notice: Public notice of the amendments to Regulation 18530.45 was published through the Office of Administrative Law and sent by electronic mail to interested persons. No comment letters were received.

Reason for Proposal: Regulation 18530.45 interprets new Government Code Section 85304.5 (See Attachment 2), allowing candidates or elected officers in a local government agency to establish legal defense accounts to raise funds for attorney's fees and other legal costs arising from specified civil, criminal, or administrative proceedings. This regulation would serve as the default rule for local government agencies that do not have rules governing legal defense accounts. The regulation would also allow jurisdictions that have established rules to enact different requirements as long as certain minimum standards are met.

Summary of Amendments Regulation 18530.45: The proposed regulation is similar in many respects to Regulation 18530.4, which governs legal defense fund ("LDF") accounts and legal defense committees of state candidates and officers that the Commission adopted at its November 2007 meeting. However, under the proposed regulation, local government agencies would have a measure of flexibility in crafting their own ordinances. For instance, the proposed regulation would allow local jurisdictions to impose *different* requirements, including any contribution limits, as long as the FPPC's minimum standards are met in areas of reporting, recordkeeping, and establishment of the local legal defense account and legal defense committee. If a local agency imposes contribution limits, the regulation also allows it to permit uses of legal defense funds that differ from those applicable to state candidates in Regulation 18530.4.

The noticed version of Regulation 18530.45 reflects a minor, clarifying change from the version presented at the Commission's June meeting. This change, which is reflected in bold type in Subdivision (i) (starting on page 4, line 4) adds identical language found in Regulation 18530.4, the rules governing legal defense funds for state candidates and officers. This change makes the proposed regulation consistent with Regulation 18530.4.<sup>1</sup> The change does not affect a local

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<sup>1</sup> The Commission added this language to Regulation 18530.4 prior to its adoption at the November 14, 2007 meeting.

government agency's ability to impose different rules regarding permissible uses for legal defense funds, if the agency also imposes contribution limits on legal defense funds.

Recommendation: Staff recommends the Commission adopt amendments to Regulation 18530.4.

Attachments: 1—Regulation 18530.45  
2—Section 85304.5